

1 themselves but I thought I had a very good understanding, yes,
2 sir.

3 Q What was your understanding as to the relationship
4 at that point in time between TBN and NMTV?

5 A I think essentially patron and, you know, recipient
6 of benefits and privileges.

7 Q Can you explain what you mean by that?

8 A Yes, sir, I recognize that TTI was not in a position
9 of being an active -- or a particularly active company engaged
10 in much business and that it was receiving, if you will, the
11 covering and the benefits from a larger company.

12 Q What benefits was it receiving from TBN, to your
13 knowledge at that time?

14 A Well, Mrs. Duff, who was the director of TTI/NMTV
15 was an employee and I recognized that TBN permitted that. I
16 also recognize that they were performing ministerial functions
17 for them such as, in the case of my own billing statements, I
18 mean, processing billing statements.

19 Q So, in other words, you were aware that TTI was
20 relying on TBN's accounting department for all of TTI's
21 financial services?

22 A Generally speaking, yes, sir.

23 Q You were aware at that time that TTI was relying on
24 the same counsel, Norman Juggert, as was TBN for local
25 representation, were you not?

1 A I believe so, yes, sir.

2 Q You were aware at that time that TBN had engaged in
3 fund raising for TTI?

4 A I think this was mentioned yesterday, there was that
5 one instance in 1980 where I was aware of that. Whether
6 beyond that period of time, I don't have any memory that I was
7 aware that there was fund raising.

8 Q The money raised by that telethon, do you know where
9 that money went?

10 A Not specifically, no, I mean, I really don't know
11 how much came, whether any came in or whatever, I mean, I know
12 -- the answer to your question is I don't know where it went.

13 Q You just know that there was a telethon during which
14 time money was solicited for TTI?

15 A Yes, sir.

16 Q You were aware at the time in 1986 that Mrs. Duff, a
17 board member of NMTV was also assistant to the president of
18 TBN?

19 A Yes, sir.

20 Q And that the president of TBN was a common board
21 member for both companies?

22 A President of both companies, yes, sir.

23 Q Were you aware in 1986 whether or not TBN had any
24 plan for spinning off NMTV as a totally independent and
25 separate company?

1 A Well, I believe it was a separate and independent
2 company, when you say spin-off, do you mean stop providing the
3 benefits and the privileges it was giving them?

4 Q Emancipated.

5 A I don't know that I ever had a conversation like
6 that at the time, no, sir.

7 Q You were aware in 1986 that TTI's annual meetings
8 had been held through the years jointly with TBN --

9 A Yes, sir

10 Q -- and TBN's affiliates.

11 A Yes, sir.

12 Q And from your participation and attendance at these
13 annual meetings through the years you were aware that TTI
14 participated at these meetings just as did Trinity of Florida,
15 Trinity of New York and the other so-called affiliated
16 companies.

17 A No, sir, not really, because they didn't really have
18 much in the way of business that they were transacting during
19 those years. The other com-- you know, the other entities and
20 companies you mentioned did. They were there, they did elect
21 their directors, I think, as is required every year to make
22 sure you maintain your corporate charter and the other
23 requirements. But I don't know that there was that kind of
24 active participation because frankly I don't know that, again,
25 that they had a great deal of business being conducted at that

1 time.

2 Q Didn't TTI routinely review the financial statements
3 that were circulated to everyone in attendance at the annual
4 meeting?

5 A Yes, sir.

6 Q And didn't those financial statements include TTI as
7 well as the so-called affiliated companies?

8 A Yes, sir.

9 Q Did you examine those financial statements when they
10 were circulated at the annual meetings?

11 A I saw them, I can't tell you that I really examined
12 them, that's not really my area or my responsibility.

13 Q You were present at these meetings when there were
14 discussions about the financial statements, is that correct?

15 A In some meetings, yes, sir.

16 Q Were there discussions about the fund balances for
17 TTI at any of these meetings?

18 A I recall none, no, sir.

19 Q Were there any discussions about the fund balances
20 for any companies in attendance at the annual meetings?

21 A Not that I really recall, no, sir.

22 Q I've just been going through, for lack of a better
23 phrase, a laundry list of relationships between TBN and TTI,
24 the joint meetings, the financial statements, the
25 solicitation, the fund raising and there was also -- you were

1 aware that TBN had loaned money to TTI, had advanced money to
2 TTI?

3 A Yes, sir.

4 Q Did any of these relationships, any of these factors
5 enter into your decision to advise NMTV that it was okay to
6 apply for and acquire the Odessa station?

7 A No, sir, I can't say they did.

8 Q Why didn't any of these factors enter into the mix,
9 so to speak?

10 A I think by and large, sir, those were regarded in my
11 own mind and that -- I never really gave a thought of that in
12 that context, that they were ministerial functions and that
13 the requirements and the specifications under the rule of
14 fourteen went to the issue of the Board of Directors for a
15 non-profit company and who they were, their -- if they were,
16 in fact, directors then I believed that they met the exception
17 under the rule and it was appropriate to proceed accordingly.

18 Q In other words, ownership equaled control?

19 A Yes, sir, as we went through yesterday and --

20 Q Well, what we went through yesterday had to do with
21 the minority preferences.

22 A I believe there was a section we dealt with
23 specifically under 73355 subpart D, I think it's now -- the
24 rules we went through.

25 Q All right, I stand corrected, I think that might

1 have been with Mr. Cohen, I was referring to what I went
2 through with you yesterday. Was there any uncertainty in your
3 mind in 1986 or early '87 as to whether the Commission would
4 approve the grant of the Odessa permit to NMTV?

5 A I believed that they were entitled to it and the
6 Commission would. I did, however, in the contract for the
7 purchase of that CP put in a specific provision which provided
8 that the company had to qualify under the exemption and if for
9 whatever reason it did not qualify under the exception, that
10 the agreement would then not go forward.

11 Q Was there any uncertainty in your mind as to whether
12 the commission would approve the grant of the Odessa permit to
13 NMTV?

14 A There's always uncertainty in my mind when I file
15 any assignment application with the Commission because
16 regrettably I must say most of them are challenged in some
17 capacity.

18 Q All right, let me ask the question differently then,
19 Mr. May. Was there any question in your mind as to whether
20 NMTV would qualify for the exemption that you were seeking?

21 A I believed that they qualified under the exemption.

22 Q Was there a question in your mind at all as to
23 whether NMTV would qualify or it was slam-dunk situation?

24 A I don't know that I went through a scaling and
25 saying it's marginal or it's a slam dunk, I mean, I believed

1 that they qualified and presented the material accordingly.

2 Q Did Reverend Crouch express to you any question or
3 doubt in his mind as to whether NMTV would qualify?

4 A He relied on me to make that evaluation and to
5 advise him accordingly and then prepare the documents and to
6 submit to the Commission those things that I thought were part
7 of the process and required in the process where responsive
8 and he looked to me to be -- he wanted to do that and to
9 prepare those documents. His instructions to me have always
10 been, make sure that whatever's required is fully and openly
11 disclosed to the Commission and I tried to do that.

12 Q But from what you've described to me, is it -- would
13 it be correct to characterize this as a fairly routine
14 practice at the time, you were just filing an application and
15 there was nothing special about this application?

16 A Oh, I believe I was aware that no -- I was unaware,
17 let me state it that way, that any other company had ever
18 sought the application of this rule of fourteen to it,
19 certainly no other non-profit public charity and so in that
20 sense, I suppose, I was aware that this was somewhat unique
21 and that's why I made sure in the agreement that there was the
22 provisions that they have to comply with this exception under
23 the rules and then sought the application of the exception as
24 part of the material in the application.

25 Q Now, you testified that Reverend Crouch gave you a

1 standing instruction to always reveal everything to the
2 Commission, be entitled -- entirely forthcoming, correct?

3 A Yes, sir.

4 Q Do you recall specifically with respect to the
5 filing of the Odessa application a conversation with Reverend
6 Crouch in which he went out of his way to advise you, to
7 direct you to be forthcoming and tell the Commission about the
8 relationships that TBN had with NMTV?

9 A I don't know that I can recall a specific
10 conversation but I can tell you that it has been clear to me
11 for the period of time that I have represented Dr. Crouch and
12 the companies that he is involved in, that that's been his
13 instruction that that be done and he relies on me in gathering
14 the material and putting the material together in the
15 application and submitting it and processing it at the FCC.

16 Q That's a general instruction that you've had through
17 the years. My question goes specifically to the Odessa
18 application, Mr. May --

19 A I think he --

20 Q Were there any special instructions for the Odessa
21 application that you can recall, about being entirely
22 forthcoming and providing everything the Commission needed to
23 know about the relationship between TBN and NMTV:

24 A Mr. Schonman, I think in each instance that is
25 understood by me to be the case and I believe that that is

1 | understood by Dr. Crouch to be the case --

2 | JUDGE CHACHKIN: That's not --

3 | MR. MAY: I cannot recall a specific conversation
4 | about that but I understood that and tried to coordinate
5 | fluently.

6 | JUDGE CHACHKIN: That's not the question. The
7 | question was simply -- please be responsive. The question was
8 | simply, do you recall a specific conversation at the time of
9 | the filing of the Odessa assignment application. I'm not
10 | interested in what you understood, it's a simple question and
11 | the answer, I gather, from you is you don't recall such a
12 | specific conversation, is that correct?

13 | MR. MAY: That's correct.

14 | JUDGE CHACHKIN: All right, and I would appreciate
15 | --

16 | MR. MAY: And I'm trying to be responsive.

17 | JUDGE CHACHKIN: Well, you weren't being responsive
18 | when you're talking about your understanding. The question
19 | asked you about a specific conversation at the time of the
20 | Odessa application and that's what you should respond to.

21 | BY MR. SCHONMAN:

22 | Q Mr. May --

23 | COURT REPORTER: Excuse me.

24 | (Off the record. Back on the record.)

25 | BY MR. SCHONMAN:

1 Q Mr. May, I'd like to direct your attention to your
2 direct testimony, Trinity Exhibit 105 and there are two tabs
3 that I'd like you to look at, Tab P as in Paul, page 33, put
4 your finger there, if you don't mind and Tab V as in Victor,
5 page 64.

6 A Give me first page here again, please, Mr. Schonman.

7 Q Tab P as in Paul, page 33.

8 A 33.

9 Q V as in Victor, 66. Now, the first tab is the
10 Odessa application, that is to -- for NMTV to acquire the
11 Odessa station, and "V", Tab V is the application for the
12 Portland station.

13 A Yes, sir, I have them.

14 Q Now, what were the purposes or the purposes of this
15 exhibit, of the stations and the locations and the ABITV
16 households in each case?

17 A Part of the requirement in applying the Commission's
18 multiple ownership rule is a limitation of the national
19 audience reach. I believe as I stated for VHF television
20 stations that's a thirty percent of the national audience
21 reach and for UHF it's sixty percent of the audience reach so
22 that's the purpose here, to present it and to show what
23 basically the reaches are.

24 Q Now, in each case there's a reference to
25 Poughkeepsie, New York station, WTBY, do you see that, in each

1 case?

2 A Yes, sir.

3 Q And in each case the number or the number of ADITV
4 households is 200,000, do you see that?

5 A Yes, sir.

6 Q You prepared these -- this exhibit did you not?

7 A Yes, sir.

8 Q Where did you come up with the number 200,000 for
9 the Poughkeepsie, New York station?

10 A I have a footnote here and it indicates that I
11 didn't find the Arbitron figures so I just assumed it based on
12 population.

13 Q Well, what was the process you went through in order
14 to arrive at the number 200,000?

15 A Generally based on population, I think used the
16 greater Dutchess County or, you know, just the greater area
17 there, it's not just county, it touched on, I think, portions
18 of other counties as well, West Chester, etcetera.

19 Q Well, how did you determine the parameters that you
20 would use, why Dutchess and not West Chester County, for
21 example, which is further south and closer to New York City?

22 A I tried to make an assumption generally about the
23 area, I mean, I'd gone to high school in the area of White
24 Plains, New York and so I thought I had some sense of the area
25 and where Poughkeepsie was and the like.

1 Q Was it based on the contours of the station?

2 A No, sir, it was just based on Poughkeepsie and it
3 just was Poughkeepsie.

4 Q Well, I'm trying to understand the process you went
5 through in order to arrive at the number 200,000.

6 A Well, I -- what I tried to was look for the Arbitron
7 numbers specifically in like the fact book or the yearbook and
8 if I couldn't find Arbitron numbers, then I sort of went to
9 this process of making an assumption based on the population.

10 Q Did you discuss this number with anyone?

11 A I recall that when the application was pending that
12 I called Mr. Alan Glasser and just -- I had never done one of
13 these before, I had never seen any one done before and frankly
14 wasn't all together positive that this was precisely the right
15 way to present it or the material that was otherwise needed
16 and said "Did you look at the part that I did about this" and
17 was sort of -- and he acknowledged that yes, he saw that the
18 material was there, it seemed to satisfactory, I mean, in
19 other words I wasn't asked to supplement or to provide
20 additional or other material.

21 Q Did you consult with Reverend Crouch about this
22 number?

23 A No, sir, I mean, I prepared the document and just
24 sent it out to -- no, sir, I did not.

25 Q Did you discuss this number with him or anyone at

1 TBN or NMTV?

2 A No, sir.

3 Q Were you aware at the time that Reverend Crouch was
4 representing in his Praise the Lord newsletters that the
5 Poughkeepsie station was serving 16,000,000 people?

6 A No, sir.

7 Q Is this the first time that you're hearing that
8 Reverend Crouch was holding out in his newsletters that the
9 Poughkeepsie station was serving 16,000,000 people?

10 A I can't recall any previous times specifically, no.

11 JUDGE CHACHKIN: Are you moving on to something
12 else?

13 MR. SCHONMAN: Yes.

14 JUDGE CHACHKIN: We'll take a ten-minute recess.

15 (Whereupon, a brief recess was taken from 11:03 a.m.
16 until 11:14 a.m.)

17 JUDGE CHACHKIN: Are we ready to go back on the
18 record? Go ahead.

19 MR. SCHONMAN: Yes, sir.

20 BY MR. SCHONMAN:

21 Q Mr. May, when you advised TTI early on that it was
22 okay for the corporation to claim a minority and
23 diversification preference and that was in 1984, did you also
24 advise TTI to attempt to separate itself in any way from TBN?

25 A No, sir.

1 Q When you advised NMTV that you thought it could
2 qualify for the exemption and therefore acquire the Odessa
3 station, did you advise NMTV at that time to attempt to
4 separate itself from TBN in any manner?

5 A No, sir, in fact, Mr. Schonman, I honestly believed
6 that the intent of the policy was to permit group owners to
7 become involved with broadcasters to provide many important
8 services.

9 Q Did you know what ser-- did you have any services in
10 mind that you believed the Commission contemplated?

11 A Yes, sir.

12 Q What services were those?

13 A Programming, management, financing.

14 JUDGE CHACHKIN: Did you derive this knowledge from
15 anything in the Commission's report that we could -- that the
16 entity could provide programming, financial and management?

17 MR. MAY: Your Honor, the -- what I recall out of
18 the report and order is the --

19 JUDGE CHACHKIN: Well, what happened?

20 MR. MAY: -- rather details and discussions they had
21 about the inability for minority groups to get financing and
22 to be able to -- and the impediments that that created and
23 them being able to get into broadcasting and in that context I
24 understand that it also was involving management services to
25 be able to be provided and the like.

1 JUDGE CHACHKIN: Well, I have in front of me the
2 report, show me where there's any discussion of -- that this
3 would be permitted under this exemption whereby the entity who
4 had twelve stations and was seeking to acquire a thirteenth
5 could provide programming, financial and management services
6 to this minority controlled company. I'd like to know where
7 there's any statement like that by the Commission in their
8 report and order.

9 MR. MAY: References is paragraph 45 to the
10 recognition of the impediments in the world of financing.

11 JUDGE CHACHKIN: What are you reading from, the
12 Commission's majority opinion?

13 MR. MAY: Well, it's what you handed me, Your Honor,
14 let me --

15 JUDGE CHACHKIN: Well, I handed you the entire
16 report and order where the Commission adopted its policy
17 allowing an exemption.

18 MR. MAY: Yes, 100 FCC 2nd in -- on page 94 in the
19 paragraph 45 deals with the minority incentive and recognizing
20 --

21 JUDGE CHACHKIN: What does it say there whereby it
22 says that the entity seeking the exemption has a right to
23 provide programming, financial and management services? If
24 there is something there, please read it.

25 MR. MAY: It's the sentiment that's being expressed,

1 Your Honor.

2 JUDGE CHACHKIN: I asked you, please read it if
3 there's anything where the Commission said it was permissible
4 under the Commission's policy which they had just adopted to
5 provide for the entity who's seeking a thirteenth full-power
6 station to provide programming, financing and management to
7 this minority controlled entity.

8 MR. MAY: In this paragraph it indicates that --

9 JUDGE CHACHKIN: Just read to me --

10 MR. MAY: Okay, it says --

11 JUDGE CHACHKIN: Read it to me, read it out loud.

12 MR. MAY: "Thus, while it would be inappropriate to
13 retain multiple ownership regulations for the sole purpose of
14 promoting minority ownership, we now believe that a minority
15 incentive should be included in the rules adopted by our
16 action today" and underscore the word incentive there.
17 "Accordingly we are adopting rules today which permit group
18 owners of television and radio stations to utilize a maximum
19 numerical cap of fourteen stations provided that at least two
20 of the stations in which they hold cognizable interests are
21 minority controlled. Group owners having a cognizable
22 interest in at least one minority controlled television and
23 radio station may utilize a maximum numerical cap of thirteen
24 stations extending this policy to the audience reach",
25 etcetera, it goes on and in that context, based on other

1 discussions recognizing the limitation of financing being
2 available to minorities, I understood that to mean that there
3 was an invitation for group owners to be involved in the other
4 twelve stations.

5 JUDGE CHACHKIN: Sir, sir, you're a lawyer, I've
6 asked you, find me anything where the Commission made any
7 statement like you claimed they did, where they said that it
8 was permissible for entities seeking this exemption to provide
9 programming, finance and management.

10 MR. MAY: Well, I understood that to be wherein --

11 JUDGE CHACHKIN: Understood -- where is there any --
12 what is that based on, what your understanding based on? Read
13 to me -- do you have any other statement you'd like to read to
14 me where it's based -- where you assume -- base this
15 understanding on, sir? You will agree with me, sir, that the
16 statement that you've read does not include any statement by
17 the Commission authorizing the entity to provide programming,
18 financing and management for this exempted station. Do you
19 agree with me that that -- the statement you read does not
20 contain that?

21 MR. MAY: Yes, sir, I would agree with you.

22 JUDGE CHACHKIN: All right, then, now, you tell me
23 where the Commission made such a statement in this report and
24 order? As far as I know there's only one paragraph devoted to
25 the minority exemption in the whole report and order, sir.

1 (Off the record. Back on the record.)

2 MR. MAY: -- continue to read this but I'd be glad
3 to read it over lunch more specifically and give you the
4 specifics --

5 JUDGE CHACHKIN: You can read it as many times as
6 you want, sir, and I think you will find no language where the
7 Commission stated explicitly or inferred that it was
8 permissible under this pol-- under this rule-making for a
9 company -- an entity seeking a thirteenth station to provide
10 programming, financial and management services.

11 MR. MAY: Are you use -- I don't mean to argue or --

12 JUDGE CHACHKIN: Well, I'm not arguing with you,
13 sir, I've read the thing and I've read it two or three times,
14 I can't find any such language and as I say, the only material
15 dealing with this subject is about -- is in one paragraph.

16 MR. MAY: And in that paragraph it uses the phrase
17 "cognizable interests" and that's --

18 JUDGE CHACHKIN: And what is "cognizable interest"
19 mean?

20 MR. MAY: It means a recognizable active interest to
21 which you are assessed under the rules as having an ownership
22 interest.

23 JUDGE CHACHKIN: What was the cognizable interest
24 before the Commission adopted its policy -- what is the -- in
25 other words, before the Commission adopted the exemption, what

1 was the cognizable interest under which you could acquire a
2 thirteenth station or you couldn't acquire a thirteenth
3 station?

4 MR. MAY: I don't believe -- you -- there was any
5 mechanism by which you could acquire a thirteenth --

6 JUDGE CHACHKIN: Oh, there wasn't?

7 MR. MAY: -- a thirteenth or fourteenth station.

8 JUDGE CHACHKIN: Yes, there wasn't any percentage
9 interest in which you could have and still have a thirteenth
10 station.

11 MR. MAY: Unless you're referring to, I guess, the
12 five percent non --

13 JUDGE CHACHKIN: That's correct, that was the
14 cognizable interest, it was five percent, you had to have less
15 -- five or less -- less than five percent, that was the
16 cognizable interest. What the Commission did in this minority
17 policy, they increased the cognizable interest from five
18 percent to forty-nine percent. That's the cognizable interest
19 the Commission is talking about here, isn't that what they're
20 talking about?

21 MR. MAY: Well, I didn't understand it that way,
22 sir.

23 JUDGE CHACHKIN: Oh, you didn't?

24 MR. MAY: No, sir.

25 JUDGE CHACHKIN: Well, you knew -- you do agree with

1 me that cognizable interest as used by the Commission prior to
2 the exemption was five percent, that was the maximum. You
3 could acquire a thirteenth or fourteenth or fifteenth station
4 as long as your interest was less than five percent, isn't
5 that true?

6 MR. MAY: But it's a different interest that we're
7 talking about, I mean they're not going to assess you as
8 having that ownership interest if it's below these limits or
9 these procedures. Here you're essentially assessed the
10 interest in it but they've increased the participation that
11 you can have, I --

12 JUDGE CHACHKIN: But -- they've increased -- you can
13 have up to forty-nine percent. Let's talk it about it and --
14 let's forget about non-profit, let's talk about for profit
15 corporation. Now, if we're dealing with a for-profit
16 corporation and an entity wanted to acquire a thirteenth
17 station, how much interest could -- were they permitted to
18 under the exemption policy?

19 MR. MAY: When they increased it from five I guess
20 they increased it up to the fifty percent or forty-nine
21 percent.

22 JUDGE CHACHKIN: So you -- under the -- as far as a
23 commercial station is concerned, they could acquire a
24 thirteenth station as long as the thirteenth station was
25 controlled by minorities, that is, minorities that have a

1 fifty-one percent interest and their inter-- cognizable
2 interest or we'll talk about interest here, you don't
3 recognize that concept, that interest for forty-nine percent,
4 is that correct?

5 MR. MAY: Yes, sir.

6 JUDGE CHACHKIN: All right, now assuming that we had
7 a situation where despite the only -- they only had forty-nine
8 percent interest, in fact, the evidence establishes that
9 they're controlling this com-- this thirteenth corporation,
10 could they do so under the Commission's exemption policy?

11 MR. MAY: Could a finding be made that they
12 controlled the company?

13 JUDGE CHACHKIN: Assuming that was the fact, they
14 controlled the corporation even though the ownership was held
15 by fifty-one percent minority, could you still find the
16 determination they were in violation of the policy if, in
17 fact, the evidence established that this entity controlled
18 this "minority" controlled corporation?

19 MR. MAY: I suppose so, yes, sir.

20 JUDGE CHACHKIN: That would be a violation of it,
21 would it not?

22 MR. MAY: Yes.

23 JUDGE CHACHKIN: So then I assume that if we deal
24 with at non-profit corporation as we have here,
25 notwithstanding the fact that you have minority ownership, two

1 | directors out of three, if, in fact, the corporation -- the
2 | entity was being controlled -- this minority control was being
3 | -- it was being controlled by the entity which was precluded
4 | from having a thirteenth corporation, could -- wouldn't you be
5 | in violation of the Commission's multiple ownership rules?

6 | MR. MAY: I guess you could, yes, sir.

7 | JUDGE CHACHKIN: You guess, it's that a fact you
8 | would be? So de facto control -- it doesn't matter whether
9 | you're dealing with a commercial corporation for profit of a
10 | non-profit corporation, de facto control still was an element
11 | of control, was it not?

12 | MR. MAY: Well, I never thought of it in those
13 | contexts, the de facto -- I mean, I recog -- I read this
14 | policy and believed that the invitation was to permit the
15 | relationship would then evolve, that's the advise I gave.
16 | Whether or not it was right or wrong or whether or not it was
17 | well-founded, it was the advise I gave, people acted on it and
18 | that's why we're here today and literally millions of dollars
19 | and hundreds of peoples of lives have been impacted as a
20 | result of what I did.

21 | JUDGE CHACHKIN: Well, we're discussing with you
22 | your exhibit and in your exhibit I don't notice where you say
23 | anything that you were wrong in your determinations and your
24 | interpretation and I'm going through you -- with you through
25 | the fact that if you were dealing with a commercial

1 corporation you recognize that if, in fact, the corporation
2 which has twelve stations is controlling the thirteenth
3 corporation which is -- has fifty-one percent minority
4 ownership, that -- they couldn't do it, it would be in
5 violation of rules, the multiple ownership rules because the
6 multiple ownership rule speaks not in just in terms of
7 ownership, it speaks in terms of control and that no -- you
8 would also agree with me that there's no difference when
9 you're dealing with a non-profit corporation except the
10 owners, instead of having equity ownership, they're directors.
11 That's the only difference between a profit and a non-profit
12 corporation but the principle is the same. If they have
13 common control -- if it -- if this thirteenth corporation is
14 being controlled by the entity which has now exceeded its
15 limit because it had -- it on -- it has twelve -- and twelve
16 broadcast stations, then that would be a violation of the
17 multiple ownership rule.

18 MR. MAY: Well, yes, sir, I recognize that and I
19 recognize that when the Commission issued the hearing
20 designation order it did not accept the rationale and the
21 advice that I had been giving to my client, but the purpose of
22 my exhibit is to be as open as I can with this Court to say
23 this is what I did, this is what people reacted to.

24 JUDGE CHACKIN: And you're saying you weren't aware
25 at the time of the Commission's exemption that control was a

1 factor to be considered in the multiple ownership rules?

2 MR. MAY: I -- no, sir, I never considered that de
3 facto control in this context would be a problem, I frankly
4 thought that under the rules the way I understood them and the
5 advise that I gave was that they could do these things. I
6 mean, for example, Your Honor, to the extent that they had
7 ministerial function like accounting, that's not a control
8 factor. I mean, people that -- people do ministerial things
9 all the time. You -- I just didn't put it in the same context
10 that it's now being put into now. That's not to recognize
11 that I don't see that the Commission disagrees with me and
12 disagrees with me in very large proportions and I recognize
13 that but I'm here to be open with this tribunal and to say to
14 you, this is what I told these people, they relied on me to
15 provide that advise this is the advise I provide and this is
16 what was set in motion as a result and all of this has
17 occurred because of the advise that I gave.

18 JUDGE CHACHKIN: Well, I would suggest that -- well,
19 that's -- what you're saying -- so you're now conceding that
20 you were wrong?

21 MR. MAY: I'm conceding that the Commission
22 disagrees with me --

23 JUDGE CHACHKIN: Well, no, that's not what I asked
24 you, I asked you, are you conceding that you're wrong, that
25 control under the multiple ownership rules, it's not just

1 ownership but control, you can't not only own a thirteenth
2 station but you can't control a thirteenth station.

3 MR. MAY: I can't concede that, Your Honor, I mean,
4 I --

5 JUDGE CHACHKIN: You can't concede that when the
6 rule specifically says that?

7 MR. MAY: I mean, Your Honor, I believe that the
8 advise I gave was given in good faith, I believe it is
9 rationally and in good faith presented. This tribunal may
10 agree with me -- disagree, others may disagree with me but it
11 -- that's the advise I gave and I'm not going to be prepared
12 to concede and just say, oh, well, you know, what I gave was
13 just ridiculous and silly advise and it may turn out to be
14 that way but I'm not going to walk away from it, it's what I
15 did.

16 JUDGE CHACHKIN: Well, then you still believe that
17 you gave -- you still believe that you're right with your
18 interpretation of the multiple ownership rule, is that what
19 you're saying?

20 MR. MAY: I recognize the Commission disagrees with
21 me, I'm not going to sacrifice my appeal right, I mean, I --
22 it's very hard to ask a lawyer that question, would you run
23 away from the argument when I rep -- when I -- I mean, it's
24 what I did, it's the argument I have.

25 JUDGE CHACHKIN: I presume is a lawyer has been